

Exhibit A

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

FEB 24 2014

ALAN CARLSON, Clerk of the Court

BY: _____, DEPUTY

1 JULIO PICHARDO, In Pro Per
2 1201 E. Sudene Ave.
3 Fullerton, California 92831
4 Telephone No.: (714) 447-4207

5 Plaintiff Julio Pichardo, In Pro Per

6 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF ORANGE – CENTRAL JUSTICE CENTER**

9 JULIO PICHARDO, an individual,

10 Plaintiff,

11 vs.

12 GMAC MORTGAGE, DOES 1 to 10,

13 Defendant

Case No.: 30-2012-00581642-CU-CL-CJC

Case Assigned to:

Honorable Robert Moss

Department C 23

FIRST AMENDED COMPLAINT FOR:

1. BREACH OF CONTRACT;
2. BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING;
3. NEGLIGENCE;
4. UNJUST ENRICHMENT; AND
5. VIOLATION OF BUSINESS & PROFESSIONS CODE §17200

Complaint Filed: 07/08/2012

Trial Date: NONE

21
22
23 Plaintiff Julio Pichardo complains and alleges:

24 **GENERAL ALLEGATIONS**

25 1. Plaintiff JULIO PICHARDO (“PICHARDO”) is an adult over the age of 18 and
26 at all relevant times herein a resident of Orange County, California.
27
28

FIRST AMENDED COMPLAINT

1 2. Plaintiff is informed and believes and based thereon alleges that Defendant
2 GMAC MORTGAGE ("GMAC") is a residential lending service company authorized to do
3 business in the State of California, including the County of Orange. Plaintiff is further informed
4 and believes and based thereon alleges that in May 2012, Defendant GMAC MORTGAGE
5 entered into Chapter 11 Bankruptcy.

7 3. Plaintiff is informed and believes and based thereon alleges that Defendant
8 OCWEN LOAN SERVICING ("OWEN") sued herein as DOE 1 is a residential lending service
9 company authorized to do business in the State of California, including the Count of Orange.
10 Plaintiff is further informed and believes and based thereon alleges that OCWEN LOAN
11 SERVICING purchased the mortgage portfolio of Defendant GMAC MORTGAGE and serviced
12 the loans of former GMAC customers, including Plaintiff.

14 4. Plaintiff is ignorant of the true names and capacities of defendants sued as DOES
15 2 through 100, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff
16 believes that each fictitiously sued defendant was in some way responsible for the acts alleged in
17 the complaint. Plaintiff will amend his complaint to allege the true names and capacities when
18 ascertained.

20 **FACTUAL ALLEGATIONS**

22 5. Plaintiff is an individual with modest means and limited fixed income.

23 6. In 1991 Plaintiff purchased the real property located at 1201 East Sudene Avenue,
24 Fullerton, California 92831.

25 7. On or about August 5, 2009, after months of negotiation and proof of financial
26 hardship Plaintiff received preliminary approval from GMAC Mortgage for a loan modification
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1 (hereinafter "FIXED RATE LOAN MODIFICATION AGREEMENT") for the subject
2 property. The FIXED RATE LOAN MODIFICATION AGREEMENT reduced Plaintiff's
3 monthly mortgage payment to \$622.53. The FIXED RATE LOAN MODIFICATION
4 AGREEMENT also provided Plaintiff with \$120,000 in principal forgiveness from \$199,000 to
5 \$63,272.87. The FIXED RATE LOAN MODIFICATION AGREEMENT stated:

7 **Borrower acknowledges that as of the Effective Date, the amount payable**
8 **under the Note and secured by the Security Instrument (the "Principal**
9 **Balance") is Sixty Three Thousand Two Hundred Seventy Two Dollars and**
10 **Eighty Seven Cents (\$ 63,272.87). Borrower hereby renews and extends such**
11 **indebtedness and promises to pay jointly and severally to the order of Lender**
12 **the Principal Balance, consisting of the amounts(s) loaned to the Borrower by**
13 **Lender and any accrued but unpaid interest capitalized to date.**

14 8. In acceptance of the agreement, on August 8, 2009, Plaintiff executed and
15 notarized the FIXED RATE LOAN MODIFICATION AGREEMENT and returned it to GMAC
16 along with the required first payment. (A true and correct copy of the FIXED RATE LOAN
17 MODIFICATION AGREEMENT is attached as Exhibit "A".)

18 9. On August 10, 2009, GMAC through its Limited Signing Officer, Kris M. Caya,
19 executed and notarized the FIXED RATE LOAN MODIFICATION AGREEMENT.

20 10. In September 2009, despite having just reached a loan modification agreement
21 with GMAC, Plaintiff began to receive telephone calls from GMAC representatives stating that
22 Plaintiff was behind on his monthly mortgage payments and threatening him with foreclosure on
23 his home. These statements were false and GMAC knew they were false as Plaintiff had
24 maintained his mortgage account in current standing.

25 ///

1 11. In November 2009, Plaintiff was admitted to the hospital for poor medical
2 condition. While in the hospital, Plaintiff received a call from GMAC demanding another signed
3 “original” of the FIXED RATE LOAN MODIFICATION AGREEMENT, which GMAC had
4 already signed back in August 10, 2009. When Plaintiff advised GMAC that he had a copy of
5 the August 2009 signed and notarized FIXED RATE LOAN MODIFICATION AGREEMENT,
6 GMAC rejected Plaintiff’s offer and stated that they would overnight to Plaintiff a new
7 document for signature. Plaintiff insisted that a new document did not need to be delivered
8 overnight, and in response GMAC threatened Plaintiff with foreclosure of his home if he did not
9 sign the new document to be overnight to Plaintiff.
10
11

12 12. On or about November 10, 2009, Plaintiff received via overnight mail a document
13 which purported to be an original of the FIXED RATE LOAN MODIFICATION
14 AGREEMENT, but in fact, was a loan document that unilaterally modified the terms of the
15 August 2009 FIXED RATE LOAN MODIFICATION AGREEMENT. The new document
16 unilaterally changed the terms of the unpaid principal balance on Plaintiff’s mortgage from
17 principal forgiveness to principal deferment. The new document entitled “FIXED RATE LOAN
18 MODIFICATION AGREEMENT WITH TERM EXTENSION, DEFERRED PRINCIPAL AND
19 DEBT FORGIVENESS” stated:
20
21

22 **Borrower acknowledges that as of the Effective Date, the amount payable**
23 **under the Note and Security Instrument (New Principal Balance is**
24 **\$63,272.87. This represents a reduction in my old principal balance (the**
25 **balance due prior to the date of this loan modification) by \$120,000.00 (Total**
26 **Deferred + Forgiven Principal) of which \$0.00 is being forgiven in full and**
27 **\$120,000.00 is being deferred (the “Deferred Principal Balance”) until the**
28 **extended Term of my loan expired (the New Maturity Date or when I payoff**
my loan the time when I sell or transfer any interest in my home, refinance
the loan, or when the last scheduled payment is due, and the Lender will be

1 **under no obligation to refinance my loan. Until I am required to pay off the**
2 **Deferred Principal Balance, I will be required to pay or make monthly**
3 **payments on the deferred amount.**

4 13. At no time prior to Plaintiff's stay in the hospital and receipt of the November
5 loan modification documents did GMAC ever raise or discuss the option of principal deferment
6 with Plaintiff. Under the threat of home foreclosure and faced with Plaintiff's immediate
7 medical emergency requiring hospitalization, Plaintiff reluctantly signed the document to save
8 his home. On November 12, 2009, Plaintiff executed and notarized the FIXED RATE LOAN
9 MODIFICATION AGREEMENT WITH TERM EXTENSION, DEFERRED PRINCIPAL AND
10 DEBT FORGIVENESS. (A true and correct copy of the FIXED RATE LOAN
11 MODIFICATION AGREEMENT WITH TERM EXTENSION, DEFERRED PRINCIPAL AND
12 DEBT FORGIVENESS is attached as Exhibit "B".)

13
14
15 14. While continuing to threaten Plaintiff with foreclosure if he did not sign the
16 FIXED RATE LOAN MODIFICATION AGREEMENT WITH TERM EXTENSION,
17 DEFERRED PRINCIPAL AND DEBT FORGIVENESS, GMAC itself refused to sign the
18 agreement.

19
20 15. Between November 2009 and 2012, Plaintiff continued to make the monthly
21 mortgage payments. Despite Plaintiff's efforts to keep his mortgage account current, he
22 continually received statements from GMAC that he owed more money in undisclosed fees and
23 costs. When Plaintiff would inquire about these fees and costs, GMAC would again threaten
24 Plaintiff with home foreclosure if he did not pay the additional fees and costs. Out of fear that
25 Plaintiff would lose his home to foreclosure, Plaintiff continued to make the irregular payments
26 to GMAC despite the fact that Plaintiff lived on a fixed income and has limited means.
27
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1 16. On or about July 6, 2012, Plaintiff filed a Complaint in the Orange County
2 Superior Court for Violation of the Fair Debt Collections Practice Act, Negligent
3 Misrepresentation, Violation of Business and Professions Code Section 17200 and Violation of
4 Business and Professions Code Section 17500 against GMAC MORTGAGE.
5

6 17. On or about February 7, 2013, Plaintiff received notice that GMAC transferred
7 servicing of his mortgage from GMAC to OCWEN LOAN SERVICING LLC. The notice
8 further stated that "transfer of servicing does not affect any term or condition of the mortgage
9 documents, other than those directly related to the servicing of your loan." The principal balance
10 Plaintiff owed on his mortgage loan was \$54,101.68.
11

12 18. Shortly after OCWEN began servicing of Plaintiff's mortgage, Plaintiff began
13 receiving unsolicited letters purporting to state Plaintiff's request for additional loan
14 modifications. At no time did Plaintiff request another loan modification on the subject property
15 as Plaintiff had already modified the mortgage loan back in August 2009.
16

17 19. On or about April 12, 2013, Plaintiff received an unsolicited Loan Payoff
18 Statement from OCWEN. The Payoff Statement had a total due of \$173781.77, with a deferred
19 amount of \$120,000. This deferred principal amount was contrary to any term in the August
20 2009 FIXED RATE LOAN MODIFICATION AGREEMENT executed between Plaintiff and
21 GMAC.
22

23 20. As a direct and proximate result of Defendants' actions, Plaintiff has and
24 continues to be harmed and threatened with foreclosure of his home.
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1
2 **FIRST CAUSE OF ACTION**
3 **BREACH OF CONTRACT**
4 **(Against all Defendants)**

5 21. Plaintiff realleges paragraphs 1 through 20 and incorporates them herein by
6 reference as though restated herein in full.

7
8 22. Plaintiff's August 8, 2009, FIXED RATE LOAN MODIFICATION
9 AGREEMENT sets forth the terms, including outstanding principal balance, date the monthly
10 principal and interest payments that are due.

11
12 23. Defendants refuse to accept Plaintiff's payment under the terms of the August 8,
13 2009, FIXED RATE LOAN MODIFICATION AGREEMENT and threatened to foreclose on
14 Plaintiff's home.

15 24. As a direct and proximate result of Defendants' breach, Plaintiff has suffered
16 compensatory damages in an amount to be proven at trial.

17
18
19 **SECOND CAUSE OF ACTION**
20 **BREACH OF COVENANT OF**
21 **GOOD FAITH AND FAIR DEALING**
22 **(Against All Defendants)**

23 25. Plaintiff realleges paragraphs 1 through 20 and 23 and incorporates them herein
24 by reference as though restated herein in full.

25 26. Every contract imposes upon each party a duty of good faith and fair dealing in its
26 performance and its enforcement. This implied covenant of good faith and fair dealing requires
27 that no party will do anything that will do anything that will have the effect of impairing,
28

1 destroying, or injuring the rights of the other party to receive the benefits of their agreement.

2 The covenant implies that in all contacts each party will do all things reasonably contemplated
3 by the terms of the contract to accomplish its purpose. This covenant protects the benefits of the
4 contract that the parties reasonably contemplated when they entered into the agreement.
5

6 27. The August 2009 FIXED RATE LOAN MODIFICATION AGREEMENT states
7 that Plaintiff would enjoy the benefit of a loan modification with a new principal balance of
8 \$63,272.87.

9 28. The Defendants did not act in good faith when they demanded that Plaintiff
10 execute another "original" loan modification when in fact Defendants intended to unilaterally
11 change the terms of the loan modification from a principal forgiveness to principal deferment.
12

13 29. Defendants willfully breached the implied covenant of good faith and fair dealing
14 with Plaintiff when Defendants threatened Plaintiff with foreclosure if he did not sign the
15 November 2009 Loan Modification changing to the terms to principal deferment.
16

17 30. As a direct and proximate result of Defendants' breach of this covenant, Plaintiff
18 has suffered general and special damages in an amount to be determined at trial.
19

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21 **THIRD CAUSE OF ACTION**

22 **NEGLIGENCE**

23 **(Against All Defendants)**

24 31. Plaintiff realleges paragraphs 1 through 20 and incorporates them herein by
25 reference as though restated herein in full.

26 32. At all times relevant herein, Defendants, acting as Plaintiff's lender and loan
27 servicer, had a duty to exercise reasonable care and skill maintain proper and accurate loan
28

1 records and fulfill the other incidents attendant to the maintenance, accounting and servicing of
2 loan records, including but not limited, accurate calculation and crediting of payments made by
3 Plaintiff.
4

5 33. In taking the actions alleged above, and in failing to take the actions as alleged
6 above, Defendants breached their duty of care and skill to Plaintiff in the servicing of Plaintiff's
7 loan by, among other things, failing to properly calculate and credit Plaintiff's payment, prepare
8 and file false documents, threaten foreclosure without having the legal authority and proper
9 documentation to do so.
10

11 34. As a direct and proximate result of the negligence and carelessness of the
12 Defendants as set forth above, Plaintiff has suffered general and special damages in an amount to
13 be determined at trial.
14

15
16 **FOURTH CAUSE OF ACTION**
17 **UNJUST ENRICHMENT**
18 **(Against All Defendants)**

19 35. Plaintiff realleges paragraphs 1 through 20 and incorporates them herein by
20 reference as though restated herein in full.

21 36. By their wrongful acts and omissions, Defendants have been unjustly enriched at
22 the expense of Plaintiff, and thus Plaintiff has been unjustly deprived.

23 37. By reason of the foregoing, Plaintiff seeks restitution from the Defendants, and an
24 order from the Court disgorging all profits, benefits and other compensation obtained from
25 Defendants' wrongful conduct.
26

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1
2 **FIFTH CAUSE OF ACTION**

3 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

4 **(Against All Defendants)**

5 38. Plaintiff realleges paragraphs 1 through 20 and 23 and incorporates them herein
6 by reference as though restated herein in full.

7 39. California Business and Professions Code Section 17200, et seq., prohibits acts of
8 unfair competition, which means and includes any "unlawful, unfair or fraudulent business act or
9 practice...."

10
11 40. As more fully described above, the acts and practices of Defendants are likely to
12 constitute an unlawful, unfair and fraudulent business practice. Defendants' conduct is ongoing
13 and continues to this date.

14 41. Specifically, Defendants engage in the deceptive business practices with respect
15 to mortgage loan servicing, preparation and recordation of notes and security instruments,
16 foreclosure of residential property and related matters by:

- 18 (a) Assessing improper or excessive account fees;
19 (b) Improperly characterizing customers' accounts as being late or in default;
20 (c) Improperly threatening customers' homes as on the verge of foreclosure
21 proceedings;
22 (d) Misapplying or failing to apply customer payments;
23 (e) Failing to provide adequate monthly statements to customers regarding the status
24 of their accounts, payments owed, and/or basis for fees assessed;
25

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- 1 (f) Seeking to collect, and collecting, various improper fees, costs and charges,
2 that are either not legally due under the mortgage contract or California law,
3 or that are in excess of amounts legally due;
4
5 (g) Mishandling borrowers' mortgage payments and failing to timely or properly
6 credit payments received, resulting in late charges, delinquencies or defaults;
7
8 (h) Treating borrowers as if in default on their loans even though the borrowers
9 have tendered timely and sufficient payments or have otherwise complied
10 with mortgage requirements or California law;
11
12 (i) Failing to disclose fees, costs and charges allowable under the mortgage
13 contact;
14
15 (j) Ignoring grace periods; and
16
17 (k) Executing and recording false and misleading documents.

18 42. The foregoing acts and practices have caused substantial harm to California
19 consumers.

20 43. As a direct and proximate cause of the unlawful, unfair and fraudulent acts and
21 practices of Defendants, Plaintiff and California consumers have suffered and will continue to
22 suffer damages.

23 44. By reason of the foregoing, Defendants have been unjustly enriched and should
24 be required to disgorge their illicit profits and/or make restitution to Plaintiff and other California
25 consumers who have been harmed, and/or be enjoined from continuing in such practices
26 pursuant to California Business and Professions Code Sections 17203 and 17204. Additionally,
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28

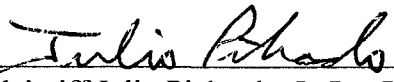
1 Plaintiff is therefore entitled to injunctive relief and attorneys' fees as available under California
2 Business and Professions Code Section 17200 and related sections.
3

4
5 **PRAYER FOR RELIEF**
6

7 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

- 8 1. For actual, compensatory and consequential damages in an amount to be proven at trial;
9
10 2. For restitution;
11
12 3. For injunctive relief;
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14 4. For punitive damages;
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16 5. For other cost of suit herein;
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18 6. For attorneys' fees where permitted by law;
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20 7. For such other and further relief as this Court deems just and proper.
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DATE: February 24, 2014


Plaintiff Julio Pichardo, In Pro Per

*Ocwen Loan Servicing, LLC**PO Box 780**Waterloo IA 50704-0780*

HELPING HOMEOWNERS IS WHAT WE DO!™

OCWEN.MORTGAGEBANKSITE.COM

07/24/13

ROCIO PICHARDO
JULIO PICHARDO
1201 EAST SUDENE AVENUE

FULLERTON CA 92831-4711

RE: Account Number [REDACTED] 9299
Property Address 1201 EAST SUDENE AVENUE

FULLERTON CA 92831-4711

Dear ROCIO PICHARDO
JULIO PICHARDO

Thank you for contacting us about your account. Enclosed is the information you requested.

If you have any questions, we are here to help. Please call our office at 800-766-4622 (weekdays, 6:00 a.m. - 10:00 p.m. CT; Saturday, 9:00 a.m. - 1:00 p.m.).

Customer Care
Loan Servicing

Enclosure

2:01

8/5/2009

GMAC Mortgage

ROCIO PICHARDO
JULIO PICHARDO
1201 EAST SUDENE AVENUE
FULLERTON CA 92831-4711

Re: Account Number [REDACTED] 9299
1201 EAST SUDENE AVENUE
FULLERTON CA 92831-4711

Dear ROCIO PICHARDO JULIO PICHARDO

Congratulations! Your request for a loan modification has been approved subject to the following:

- Receipt of your contribution in the form of certified funds
- Receipt of the signed and notarized loan modification agreement and any attachments
- Receipt of clear title, if applicable

Highlights of the enclosed Loan Modification Agreement and instructions for completing and returning it are as follows:

- The contribution amount of \$ 620.00 in the form of certified funds, is due in our office by September 1, 2009.
- The interest rate is 1.00000%.
- The first modified payment begins October 1, 2009.

Principal and Interest	\$ 247.96
Escrow	\$ 374.57
Total Payment	\$622.53

Do NOT sign the enclosed Loan Modification Agreement unless you are in the presence of a notary. This document must be signed in the presence of a notary and (if applicable) other witnesses. All of the documents must be executed and the signatures must be exactly as the names are typed.

- The signed and notarized Loan Modification Agreement should be returned using the enclosed pre-paid overnight envelope.
- If any modification closing costs are more than projected, the difference will be assessed to the account.
- All miscellaneous fees and costs – excluding late charges – may not have been included in the loan modification and will remain outstanding.

The contribution and executed loan modification documents are due back by September 1, 2009. Please return to:

GMAC Mortgage, LLC
Attn: Loan Modification
3451 Hammond Avenue
Waterloo, IA 50702

IMPORTANT! The loan modification will not be complete until we receive all properly executed documents and the contribution amount. If the modification is not completed we will continue to enforce our lien. If the conditions outlined above are not satisfied the modification will be withdrawn.

If you have any questions regarding this modification offer, please contact a modification specialist directly at 1-800-799-9250 Monday – Thursday 8:00 AM to 7:00 PM, Friday 8:00 AM to 5:00 PM, Central Time.

Loan Modification Specialist
Enclosures

Record & Return To:

GMAC Mortgage, LLC
Attention: Loss Mitigation
3451 Hammond Avenue
Waterloo, IA 50702

(Space Above This Line For Recorder's Use)

FIXED RATE LOAN MODIFICATION AGREEMENT

This Loan Modification Agreement ("Agreement") made this September 1, 2009 ("Effective Date") between ROCIO PICHARDO JULIO PICHARDO ("Borrower") and GMAC Mortgage, LLC ("Lender"), amends and supplements that certain promissory note ("Note") dated July 31, 2003 in the original principal sum of One Hundred Ninety Nine Thousand Dollars and No Cents (\$ 199,000.00) executed by Borrower. The Note is secured by a Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated the same date as the Note, and if applicable, recorded on with Instrument Number in Book and/or Page Number of the real property records of ORANGE County, CA. Said Security Instrument covers the real and personal property described in such Security Instrument (the "Property") located at 1201 EAST SUDENE AVENUE FULLERTON CA 92831-4711, which real property is more particularly described as follows:

(Legal Description – Attach as Exhibit if Recording Agreement)

Borrower acknowledges that Lender is the legal holder and the owner of the Note and Security Instrument and further acknowledges that if Lender transfers the Note, as amended by this Agreement, the transferee shall be the "Lender" as defined in this Agreement.

Borrower has requested, and Lender has agreed, to extend or rearrange the time and manner of payment of the Note and to extend and carry forward the lien(s) on the Property whether or not created by the Security Instrument.

Now, therefore, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

1. Borrower acknowledges that as of the Effective Date, the amount payable under the Note and secured by the Security Instrument (the "Principal Balance") is Sixty Three Thousand Two Hundred Seventy Two Dollars and Eighty Seven Cents (\$ 63,272.87). Borrower hereby renews and extends such indebtedness and promises to pay jointly and severally to the order of Lender the Principal Balance, consisting of the amount(s) loaned to Borrower by Lender and any accrued but unpaid interest capitalized to date.

2. Interest will be charged on the unpaid Principal Balance until the full amount of principal has been paid. Borrower will pay interest at the rate of 1.00000% per year from the Effective Date.

3. Borrower promises to make monthly principal and interest payments of \$ 247.96, beginning on October 1, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. If on August 1, 2033 (the "Maturity Date"), Borrower still owes amounts under the Note and Security Instrument, as amended by this Agreement, Borrower will pay these amounts in full on the Maturity Date. Borrower will make such payments at 3451 Hammond Avenue, Waterloo, IA 50702 or at such other place as Lender may require. The amounts indicated in this paragraph do not include any required escrow payments for items such

as hazard insurance or property taxes; if such escrow payments are required the monthly payments will be higher and may change as the amounts required for escrow items change.

4. If Lender has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, Borrower will pay a late charge to Lender. The amount of the charge will be the late charge percentage provided for in the Note multiplied by the overdue payment of principal and interest required under this Agreement. Borrower will pay this late charge promptly but only once on each late payment. The late charge is not in lieu of any other remedy of Lender, including any default remedy.

5. It is the intention of the parties that all liens and security interests described in the Security Instrument are hereby renewed and extended (if the Maturity Date of the original Note has been changed) until the indebtedness evidenced by the Note and this Agreement has been fully paid. Lender and Borrower acknowledge and agree that such renewal, amendment, modification, rearrangement or extension (if applicable) shall in no manner affect or impair the Note or liens and security interests securing same, the purpose of this Agreement being simply to modify, amend rearrange or extend (if applicable) the time and the manner of payment of the Note and indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note, which are expressly acknowledged by Borrower to be valid and subsisting, and in full force and effect so as to fully secure the payment of the Note.

6. If all or any part of the Property or any interest in it is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by applicable law. If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower. For purposes of this paragraph, "interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is transfer of title by Borrower at a future date to a purchaser.

7. As amended hereby, the provisions of the Note and Security Instrument shall continue in full force and effect, and the Borrower acknowledges and reaffirms Borrower's liability to Lender thereunder. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instrument, this Agreement shall govern. Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement, including but not limited to, in the case of the Borrower, the obligation to pay items such as taxes, insurance premiums or escrow items, as applicable. Any default by Borrower in the performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said Security Instrument.

8. Lender does not, by its execution of this Agreement, waive any rights it may have against any person not a party hereto. This Agreement may be executed in multiple counterparts, each of which shall constitute an original instrument, but all of which shall constitute one and the same Agreement. EACH OF THE BORROWER AND THE LENDER ACKNOWLEDGE THAT NO REPRESENTATIONS, AGREEMENTS OR PROMISES WERE MADE BY THE OTHER PARTY OR ANY OF ITS REPRESENTATIVES OTHER THAN THOSE REPRESENTATIONS, AGREEMENTS OR PROMISES SPECIFICALLY CONTAINED HEREIN. THIS AGREEMENT, AND THE NOTE AND SECURITY INSTRUMENT (AS AMENDED HEREBY) SETS FORTH

THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

Executed effective as of the day and year first above written.

Rocio Pichardo
ROCIO PICHARDO

Julio Pichardo
JULIO PICHARDO

BORROWER ACKNOWLEDGMENT

State of California
County of Orange

On this 8 day of August 2009, before me, the undersigned, a Notary Public in and for said county and state, personally appeared ROCIO PICHARDO JULIO PICHARDO personally known to me or identified to my satisfaction to be the person(s) who executed the within instrument, and they duly acknowledged that said instrument is their act and deed, and that they, being authorized to do so, executed and delivered said instrument for the purposes therein contained.

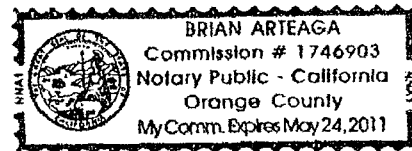
Witness my hand and official seal.

[Signature]
Notary Public
My Commission Expires: May 24, 2011

GMAC Mortgage, LLC

By: Krista M. Caya

Title: Limited Signing Officer



LENDER ACKNOWLEDGMENT

State of IOWA
County of BLACKHAWK

On this 10 day of Aug 2009, before me, the undersigned, a Notary Public in and for said county and state, personally appeared KRIS M. CAYA, personally known to me or identified to my satisfaction to be the person who executed the within instrument as Limited Signing Officer of GMAC Mortgage, LLC, and they duly acknowledged that said instrument is the act and deed of said entity, and that they, being authorized to do so, executed and delivered said instrument for the purposes therein contained.

Witness my hand and official seal.

[Signature]
Notary Public
My Commission Expires: _____



GMAC Mortgage

11/10/2009

ROCIO PICHARDO
JULIO PICHARDO
1201 EAST SUDENE AVENUE
FULLERTON CA 92831-4711

Re: Account Number [REDACTED] 9299
1201 EAST SUDENE AVENUE
FULLERTON CA 92831-4711

Dear ROCIO PICHARDO JULIO PICHARDO

Congratulations! Your request for a loan modification has been approved subject to the following:

- Receipt of your contribution in the form of certified funds
- Receipt of the signed and notarized loan modification agreement and any attachments
- Receipt of clear title, if applicable

Highlights of the enclosed Loan Modification Agreement and instructions for completing and returning it are as follows:

- The contribution amount of \$ 623.00 in the form of certified funds, is due in our office by November 23, 2009.
- The interest rate is 1.00000%.
- The first modified payment begins January 1, 2010.

Principal and Interest	\$ 250.28
Escrow	\$ 374.57
Total Payment	\$624.85

Do NOT sign the enclosed Loan Modification Agreement unless you are in the presence of a notary. This document must be signed in the presence of a notary and (if applicable) other witnesses. All of the documents must be executed and the signatures must be exactly as the names are typed.

- The signed and notarized Loan Modification Agreement should be returned using the enclosed pre-paid overnight envelope.
- If any modification closing costs are more than projected, the difference will be assessed to the account.
- All miscellaneous fees and costs – excluding late charges – may not have been included in the loan modification and will remain outstanding.

The contribution and executed loan modification documents are due back by November 23, 2009. Please return to:

GMAC Mortgage, LLC
Attn: Loan Modification
3451 Hammond Avenue
Waterloo, IA 50702

IMPORTANT! The loan modification will not be complete until we receive all properly executed documents and the contribution amount. If the modification is not completed we will continue to enforce our lien. If the conditions outlined above are not satisfied the modification will be withdrawn.

If you have any questions regarding this modification offer, please contact a modification specialist directly at 1-800-799-9250 Monday – Thursday 8:00 AM to 7:00 PM, Friday 8:00 AM to 5:00 PM, Central Time.

Loan Modification Specialist
Enclosures

Record & Return To:

GMAC Mortgage, LLC
Attention: Loss Mitigation

3451 Hammond Avenue
Waterloo, IA 50702

[Space Above This Line For Recorder's Use]

**FIXED RATE LOAN MODIFICATION AGREEMENT WITH
TERM EXTENSION, DEFERRED PRINCIPAL AND DEBT FORGIVENESS**
(Balloon \ Deferred Payment Disclosure Attached)

This Loan Modification Agreement ("Agreement") made this December 1, 2009 ("Effective Date") between ROCIO PICHARDO JULIO PICHARDO ("Borrower") and GMAC Mortgage, LLC the Lender/Service or agent for Lender/Service ("Lender"), amends and supplements that certain promissory note ("Note") dated July 31, 2003 in the original principal sum of One Hundred Ninety Nine Thousand Dollars and No Cents (\$ 199,000.00) executed by Borrower. The Note is secured by a Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument"), dated the same date as the Note, and if applicable, recorded on with Instrument Number in Book and/or Page Number of the real property records of ORANGE County, CA. Said Security Instrument covers the real and personal property described in such Security Instrument (the "Property") located at 1201 EAST SUDENE AVENUE FULLERTON CA 92831-4711, which real property is more particularly described as follows:

(Legal Description if Applicable for Recoding Only)

Borrower acknowledges that Lender is the legal holder and the owner, or agent\service for the legal holder and owner, of the Note and Security Instrument and further acknowledges that if Lender transfers the Note, as amended by this Agreement, the transferee shall be the "Lender" as defined in this Agreement.

Borrower has requested, and Lender has agreed, to extend or rearrange the time and manner of payment of the Note and to extend and carry forward the lien(s) on the Property whether or not created by the Security Instrument.

Borrower hereby renews and extends such indebtedness and promises to pay jointly and severally to the order of "Lender" the Principal Balance, consisting of the amount(s) loaned to Borrower by "Lender" and any accrued but unpaid interest capitalized to date as applicable, along with any other amounts that may come due under the terms of the original Note and security Instrument.

Now, therefore, in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows (notwithstanding anything to the contrary contained in the Note or Security Instrument):

1. Borrower acknowledges that as of the Effective Date, the amount payable under the Note and Security Instrument (New Principal Balance) is \$63,272.87. This represents a reduction in my old principal balance (the balance due prior to the date of this loan modification) by \$120,000.00 (Total Deferred + Forgiven Principal) of which \$0.00 is being forgiven in full and \$120,000.00 is being deferred (the "Deferred Principal Balance") until the extended Term of my loan expires (the New Maturity Date) or when I payoff my loan at the time when I sell or transfer any interest in my

home, refinance the loan, or when the last scheduled payment is due, and the Lender will be under no obligation to refinance my loan. Until I am required to payoff the Deferred Principal Balance, I will not be required to pay interest or make monthly payments on the deferred amount.

2. Borrower will make monthly payments of principal and interest in the amount of 250.28 which will begin on January 1, 2010. Borrower's payment will be calculated based on the non-deferred principal balance, a fixed interest rate of 1.00000 per year and an extended term/amortization period of 284 months in new remaining term 284. Each monthly payment will be applied as of its scheduled due date, and it will be applied to interest before principal. The amounts indicated in this paragraph do not include any required escrow payments for items such as hazard insurance or property taxes; if such escrow payments are required the monthly payments will be higher and may change as the amounts required for escrow items change.
3. If borrower pays an amount in excess of the required monthly payment of principal and interest, that amount will serve to reduce both the non-deferred principal balance and the remaining Term of the loan, but will not cause the monthly payment of principal and interest to be re-calculated.
4. If on August 1, 2033 (the "New Maturity Date"), Borrower still owes any amounts under the Note and Security Instrument, including the "Deferred Principal Balance " as provided for in this Agreement, Borrower will pay the amounts in full on that date. Borrower will make such payments at 3451 Hammond Ave Waterloo, IA 50702 or at such other place as Lender may require.
5. If "Lender" has not received the full amount of any monthly payment within the grace period provided for in the original Note or as otherwise provided for by law, Borrower will pay a late payment fee to "Lender" in an amount calculated based on the late charge percentage provided for in the original Note, or as otherwise provided for by law, and the monthly payment required under this Agreement, with a maximum as provided for in the Note, or otherwise provided by law. Borrower will pay this late charge promptly but only once on each late payment. The late charge is not in lieu of any other remedy of Lender, including any default remedy.
6. It is the intention of the parties that all liens and security interests described in the Security Instrument are hereby renewed and extended (if the Maturity Date of the original Note has been extended) until the indebtedness, evidenced by the Note and this Agreement, has been fully paid. Lender and Borrower acknowledge and agree that such renewal, amendment, modification, rearrangement or extension (if applicable) shall in no manner affect or impair the Note or liens and security interests securing same, the purpose of this Agreement being simply to modify, amend rearrange or extend (if applicable) the time and the manner of payment of the Note and indebtedness evidenced thereby, and to carry forward all liens and security interests securing the Note, which are expressly acknowledged by Borrower to be valid and subsisting, and in full force and effect so as to fully secure the payment of the Note.
7. If all or any part of the Property or any interest in it is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without "Lender's" prior written consent, "Lender" may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by "Lender" if prohibited by applicable law. In addition, if "Lender" exercises this option, "Lender" shall give Borrower all notice(s) that may be required by law before accelerating the debt after which, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument. For purposes of this

paragraph, "interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is transfer of title by Borrower at a future date to a purchaser.

8. As amended hereby, the provisions of the Note and Security Instrument shall continue in full force and effect, and the Borrower acknowledges and reaffirms Borrower's liability to Lender thereunder. In the event of any inconsistency between this Agreement and the terms of the Note and Security Instrument, this Agreement shall govern. Nothing in this Agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and Borrower and Lender will be bound by, and comply with, all of the terms and provisions thereof, as amended by this Agreement, including but not limited to, in the case of the Borrower, the obligation to pay items such as taxes, insurance premiums or escrow items, as applicable. Any default by Borrower in the performance of its obligations herein contained shall constitute a default under the Note and Security Instrument, and shall allow Lender to exercise all of its remedies set forth in said Security Instrument.
9. Lender does not, by its execution of this Agreement, waive any rights it may have against any person not a party hereto. This Agreement may be executed in multiple counterparts, each of which shall constitute an original instrument, but all of which shall constitute one and the same Agreement.

EACH OF THE BORROWER AND THE LENDER ACKNOWLEDGE THAT NO REPRESENTATIONS, AGREEMENTS OR PROMISES WERE MADE BY THE OTHER PARTY OR ANY OF ITS REPRESENTATIVES OTHER THAN THOSE REPRESENTATIONS, AGREEMENTS OR PROMISES SPECIFICALLY CONTAINED HEREIN. THIS AGREEMENT, AND THE NOTE AND SECURITY INSTRUMENT (AS AMENDED HEREBY) SETS FORTH THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

Executed effective as of the day and year first above written.


ROCIO PICHARDO


JULIO PICHARDO

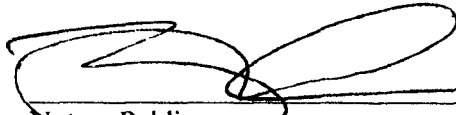
BORROWER ACKNOWLEDGMENT

State of California
County of Orange

On this 12 day of November, 2011 before me, the undersigned, a Notary Public in and for said county and state, personally appeared **ROCIO PICHARDO JULIO PICHARDO**, personally known to me or identified to my satisfaction to be the person(s) who executed the within instrument, and they duly acknowledged that said instrument is their act and deed, and that they, being authorized to do so, executed and delivered said instrument for the purposes therein contained.

Witness my hand and official seal.




Notary Public
My Commission Expires: May 24, 2011

GMAC Mortgage, LLC

By: _____

Title: _____

LENDER ACKNOWLEDGMENT

State of _____

County of _____

On this ___ day of _____, ___, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Kristi M. Caya, personally known to me or identified to my satisfaction to be the person who executed the within instrument as Limited Signing Officer of GMAC Mortgage, LLC GMAC Mortgage, LLC, and they duly acknowledged that said instrument is the act and deed of said entity, and that they, being authorized to do so, executed and delivered said instrument for the purposes therein contained.

Witness my hand and official seal.

Notary Public

My Commission Expires: _____

Date: 11/10/2009

Loan# [REDACTED] 9299

Borrower's Name: ROCIO PICHARDO JULIO PICHARDO

Lender's Name and Address: GMAC Mortgage, LLC
3451 Hammond Avenue
Waterloo, IA 50702

**IMPORTANT INFORMATION ABOUT YOUR
LOAN MODIFICATION WHICH FEATURES A DEFERRED PAYMENT**
Please Read Carefully

This disclosure describes the features of your loan modification.

How Is Your Interest Rate and Initial Payment Determined?

- According to your mortgage payment calculated for long-term affordability, your modified loan will now provide for a Deferred Payment.
- The amount of the initial monthly payment on your modified loan will be based on three factors:
 - (1) the interest rate reflected in the agreement;
 - (2) the "New Principal Balance" of the loan; and
 - (3) the remaining term and amortization periods of the loan.

Based on a scheduled of interest rate and payment adjustments, your monthly payment of principal and interest will be calculated in order to repay the "non-deferred principal balance" by the end of the Term of your loan. (the Maturity Date) Although your new scheduled monthly payments will pay down your non-deferred principal balance, a payment for the entire amount of your "Deferred Principal Balance" will be due when the Term of your loan expires or when you pay off the modified loan, which will be when you sell or transfer an interest in your house, refinance the loan, or when the last scheduled payment is due, and the Lender will be under no obligation to refinance your loan.

You will be notified in writing at least 90 but not more than 120 days before the date the deferred principal payment is due. This notice will be mailed to you at the most current mailing address you supply and will contain information about the amount of the deferred principal, the date it is due and the telephone number of the Lender's representative (or loan servicer's representative) available to answer questions you may have about the notice.

AN AMOUNT OF YOUR UNPAID PRINCIPAL BALANCE HAS BEEN DEFERRED. AS A RESULT, YOU WILL BE REQUIRED TO PAY FULL DEFERRED PRINCIPAL BALANCE WHEN THE TERM OF YOUR LOAN EXPIRES (THE MATURITY DATE), OR WHEN YOU PAY OFF THE MODIFIED LOAN, WHICH WILL BE WHEN YOU SELL OR TRANSFER AN INTEREST IN YOUR HOUSE, REFINANCE THE LOAN, OR WHEN THE LAST SCHEDULED PAYMENT IS DUE.

THE LENDER HAS NO OBLIGATION TO REFINANCE THIS LOAN AT THE END OF ITS TERM. THEREFORE, YOU MAY BE REQUIRED TO REPAY THE LOAN OUT OF ASSETS YOU OWN OR YOU MAY HAVE TO FIND ANOTHER LENDER WILLING TO REFINANCE THE LOAN.

ASSUMING THIS LENDER OR ANOTHR LENDER REFINANCES THE LOAN AT MATURITY, YOU WILL PROBABLY BE CHARGED INTEREST AT MARKET RATES PREVAILING AT THAT TIME AND SUCH RATES MAY BE HIGHER THAN THE INTEREST RATE PAID ON THIS LOAN. YOU MAY ALSO HAVE TO PAY SOME OF ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW MORTGAGE LOAN.

Example of Deferred Payment

- The payment amount due at loan maturity can change substantially based upon amount of the loan, interest rate, and any principal payments you choose to make before loan maturity, among other factors.

Modified Loan Balance	\$100,000
Modified Balance That Does Not Accrue Interest (Deferred Amt.)	\$25,000
Loan Balance That Does Accrue Interest	\$75,000
Remaining Loan Term	20 years
Deferred Principal Balance Due at Maturity	\$ 25,000.00

In the example above, the outstanding **deferred loan balance of \$25,000.00** would be due and payable at the end of 20 years.

This summary is intended for reference purposes only. Important information relating specifically to your loan modification will be contained in the loan modification documents, which alone will establish your rights and obligations under the loan modification plan. This disclosure does not address any other payments that may be required under the terms of your loan, for example, monthly escrow payments

THE PURPOSE OF THIS DISCLOSURE IS TO PROVIDE VARIOUS DETAILS ON THE TYPE OF LOAN MODIFICATION FOR WHICH YOU HAVE EXPRESSED INTEREST. THE DISCLOSURE DOES NOT CONSTITUTE A COMMITMENT ON THE PART OF THE LENDER TO MODIFY YOUR LOAN.

Receipt of a copy of this Disclosure is hereby acknowledged.

11-12-09
Date
11-12-09
Date

Date

Date

Rocio Pichardo
ROCIO PICHARDO
Julio Pichardo
JULIO PICHARDO

PROOF OF SERVICE

1

2 STATE OF CALIFORNIA)
3 COUNTY OF ORANGE) ss.

4

5 I am a citizen of the United States and employed in the County of Orange. I am over the age
6 of eighteen years and not a party to the within action. My business address is 1201 E. SYDNEY AVE
Fullerton CA 92831

7 On February 24, 2014, at Santa Ana, California, I served the foregoing document described as:

8

PLAINTIFF'S FRIST AMENDED COMPLAINT

9 on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope
addressed as follows:

10

SEE ATTACHED SERVICE LIST

11 X **BY U.S. MAIL** I caused such envelope to be deposited in the mail, with postage thereon
12 fully prepaid, at Orange, California. [I am "readily familiar" with this law office's practice
13 of collection and processing correspondence for mailing. It is deposited with the U.S. Postal
Service on that same day in the ordinary course of business. I am aware that on motion of
the party served, service is presumed invalid if the postal cancellation date or postage meter
date is more than one (1) day after the date of deposit for mailing in the affidavit.]

14 — **BY PERSONAL SERVICE** I personally delivered such envelope to the offices of the
addressee.

15 — **BY FEDERAL EXPRESS MAIL** I personally delivered such envelope on *** to a Federal
Express drop box or office in Santa Ana, California, marked for delivery on 2/24/2014.

16 — **BY FACSIMILE** I transmitted a true copy of said document by facsimile machine, pursuant
17 to Rule 2005. The facsimile machine I used complied with Rule 2003(3) and no error was
18 reported by the machine. Pursuant to Rule 2005(k), I caused the machine to print a
transmission record of the transmission, a copy of which is attached to this declaration. Said
19 fax transmission(s) was/were completed on the above date.

20 I declare under penalty of perjury under the laws of the State of California that the above is
true and correct and that this declaration was executed on February 24, 2014, at Santa Ana, California.

21

22

23

24

25

26

Rocio Pichardo

SERVICE LIST

**Julio Pichardo . v. GMAC MORTGAGE et al.
O.C.S.C. Case No: 30-2012-00581642-CU-CI-CJC**

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